UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/73/L/CH
27 August 2001

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Seventy-third session

LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE SECOND PERIODIC REPORT OF SWITZERLAND (CCPR/C/CH/98/2) (HRI/CORE/1/ADD.29)

GE.01-44364 (E) 180901

I. CONSTITUTIONAL AND LEGAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED; NON-DISCRIMINATION AND EQUALITY OF THE SEXES (ARTS. 2, 3 AND 26)

1. Please specify whether the legislation mentioned in the report as being in the drafting stage or about to be adopted (inter alia, amendments to the Federal Constitution, the Swiss Civil Code, legislation concerning the procedure before the Federal Tribunal, the General Part of the Swiss Criminal Code, the Federal Act on the Criminal Status of Minors and the Federal Asylum Act) has since been adopted and/or has entered into force and comment on its effects on the enforcement of Covenant rights.

2. Please comment on incidents of xenophobia, anti-Semitism, racial discrimination or violence and racist abuses occurring in Switzerland and on measures taken to combat recurrence of such incidents, including implementation of article 261 bis of the Swiss Penal Code. Have any new steps been taken to waive the immunity of parliamentarians with regard to racist or anti-Semitic speeches or remarks made in the course of their duties?

3. Please provide further details on the composition and the achievements of the Federal Commission against Racism on the issues mentioned in paragraphs 29 and 30 of the report.

4. Has the three circle policy for the recruitment of foreign workers been replaced by a dual system? If so, please give details of the operation of the dual system and its compatibility with articles 2 and 26 of the Covenant (see para. 39 of the report).

5. Please comment on the result of policies designed to increase the number of women in the National Council and in the Council of State.

6. Have the measures in the field of gender equality in the private and public sectors described in paragraphs 254-263 of the report led to a greater share of women in posts of responsibility and to equal remuneration for work of equal value? Please complete your answer with comparative statistical information, if available. Please also provide more information on measures taken to improve access to higher education for women.

7. Please explain whether the plan of action to foster equality between men and women, scheduled to be published in the autumn of 1998 (see paras. 43 and 251 of the report), has entered into force and, in the affirmative, elaborate on its principal aspects.

8. Please comment on the effectiveness, in practice, of measures taken to address the high incidence of violence against women and the preoccupying problem of trafficking in women for forced prostitution (see paras. 66-68 and 102-104 of the report).

II. PROHIBITION OF TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT; LIBERTY AND SECURITY OF PERSON; RIGHT OF PRISONERS AND OTHER DETAINEES TO BE TREATED WITH HUMANITY AND DIGNITY; RIGHT TO A FAIR TRIAL (ARTS. 7, 9, 10 AND 14)

9. Please give details of the procedure for investigations of complaints of police harassment or other misconduct in the course of arrest and/or in police custody, including unlawful or arbitrary detention? Have any charges been brought against police personnel accused of such acts? Have remedies been granted to victims?

10. With reference to paragraphs 269 and 270 of the report, are there any plans, for cantons other than Geneva, to adopt specific measures designed to prevent the ill-treatment of persons deprived of their liberty?

11. What measures are taken to ensure that deportation is carried out in compliance with the provisions of the Covenant, with no risk of the person being subjected to torture or any other cruel or inhumane treatment or punishment? Please provide details on the nature, the composition and the functioning of the Appeals Commission referred to in paragraph 113 of the report.

12. It is stated in paragraph 273 of the report that incommunicado detention in its harshest form has been abandoned, but that this expression continues to appear in three cantonal codes of criminal procedure. Please provide details of the actual situation with regard to incommunicado detention in each of the cantons, and the extent to which these restrictions are compatible with the provisions of the Covenant.

13. Please provide information on the average length of pre-trial detention in police custody in all cantons, statistical information on the occupancy rate of pre-trial detention facilities and information on measures taken to reduce the incidence of pre-trial detention (see para. 280 of the report).

14. Please provide more information on how the Federal Act on Coercive Measures has been applied in accordance with the spirit of the Covenant. In particular, please specify whether any measures have been taken to diminish the length of detention pending expulsion and the time taken for the judicial review of the detention decision or its extension. May foreigners held in administrative custody be assisted by counsel from the start of their detention? (paras. 283 and 284 of the report)

15. (a) With reference to the procedure mentioned in paragraphs 11 and 91 of the report, please elaborate on how the short, 48-hour, period accorded to asylum-seekers to furnish documents to identify themselves is implemented and complied with in practice. With respect to paragraph 93 of the report, please specify the period of time and facilities accorded to asylum-seekers to appeal a non-consideration decision, and indicate whether the appeal has suspensive effect.

(b) Please indicate the maximum time-frame for making a determination on an asylum application; what are the rights of the person and of his/her family until the decision has been taken? Please provide in addition information on the number of requests for asylum that have been denied since the entry into force of the new provisions.

III. FREEDOM OF MOVEMENT AND FAMILY LIFE (ARTS. 12, 17 AND 23)

16. Please indicate how the limitation of the right to freedom of movement of Swiss citizens is compatible with article 12 of the Covenant (para. 131 of the report).

17. Please explain how the denial of family reunification for seasonal workers complies with articles 17 and 23 of the Covenant. What steps have been taken with a view to possible abolition of the status of seasonal worker? (see para. 298 of the report).

IV. RIGHTS OF THE CHILD (ART. 24)

18. Please explain the procedure, under the Criminal Code, under which it is possible to prosecute persons residing in Switzerland who have committed serious sexual offences against minors abroad, independently of the applicable foreign law (see para. 105 of the report). Please give details on prosecutions that have taken place under this procedure.

V. PROTECTION OF MINORITIES (ART. 27)

19. Given that the Federal Constitution contains no provision parallel to article 27 of the Covenant, please elaborate on concrete measures taken to ensure that persons belonging to ethnic, religious and linguistic communities enjoy their rights under article 27, and whether appropriate independent agencies are monitoring progress in this area.

VI. DISSEMINATION OF INFORMATION RELATING TO THE COVENANT

20. (a) Please indicate the steps taken to disseminate information on the submission of the second periodic report and to hold consultations with concerned members of civil society in the preparatory process.

(b) What programme exists to train the judiciary to uphold the rights contained in the Covenant?

(c) Please also indicate the steps taken to increase the awareness and understanding of the Covenant, including by minorities.

- - - - -